

THE

Real Spelce

AUSTIN LETTER

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P.O. Box 1905 / Austin, Texas 78767-1905 / 512-498-9495 / Fax 512-327-1976 / e-mail News@AustinLetter.com

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Dear Client:

Testimony underway in a California court could impact those who have worked in Austin semiconductor plants the past few years – as well as the Austin semiconductor industry itself.

Two retired IBM workers are suing their former employer in Santa Clara. They claim **IBM knowingly allowed them to be poisoned by toxic chemicals** in the company's semiconductor and disk-manufacturing plants. The former employees claim the poisoning caused them to develop cancer. IBM is named in about 250 similar cases in California and New York, but this is the first to go to trial.

Executives at semiconductor plants in Austin, in fact all around the US, should be keeping a close eye on this court case. The risk is that **a big verdict against IBM could trigger similar suits** against every semiconductor manufacturer.

The problem is that clean rooms are filled with a number of different potentially dangerous, even deadly, chemicals. **Manufacturers know this and go to great lengths to train and protect employees from these poisonous substances.** Up to this point, no direct connection between the semiconductor workplace and cancer cases has been verified. IBM is currently conducting a study, at the three plants that have generated the lawsuits against the company, to assess the rates of cancer and cancer deaths at those plants.

The specific case against IBM in Silicon Valley is no slam dunk. One plaintiff has been diagnosed with non-Hodgkin's lymphoma, the other with breast cancer. The list of potential causes of those diseases is lengthy. But the difficulty of proving the plaintiff's case doesn't lessen the **concern within the semiconductor industry over the final verdict** — in what could be a landmark case for an industry that has a major presence in Austin.

As for individual workers, those who were employed in the clean rooms in the **early days of the semiconductor industry are most affected by this case.** Today's clean rooms are much more cutting-edge, automated and less dangerous.

We first alerted you to the possibility of legal action more than a year ago, 3/22/02. Now it's a reality. While timing of court cases during the year-end holiday season is hard to predict, we understand a **verdict is not likely in this complicated, important case until January.**

Even though the California court case against IBM may be difficult to prove, other suits are waiting to go to trial in an “easier” setting.

The California case places a huge burden on the plaintiffs because it is tied to the state’s workers comp laws. The plaintiffs must prove: 1) their **cancers were caused by the chemicals**, 2) **IBM knew at the time** they had been poisoned by the chemicals, 3) **IBM hid that info** from the individuals, and 4) as a result, **caused the illness to be aggravated**.

However, the cases pending in **New York have a lesser burden of proof** because they are not tied to NY’s workers comp statutes. They deal with children of moms who were **pregnant while working in the clean rooms** and who claim the kids suffered catastrophic birth defects. IBM can be found liable in these cases by simply being negligent.

California juries are notorious for large plaintiff’s judgments. So, even though the odds appear to favor IBM there, IBM would be foolish to assume a favorable decision. But, say IBM wins this case, it and the semiconductor industry, as well as Austin semiconductor manufacturers, will **still need to be concerned about what happens in New York**. And, if IBM loses in January, it could be Katy-bar-the-door against a rash of similar suits.

Do Texas college students smoke more than the comparable adult population in general? Yes, significantly.

UTAustin reports a recent survey showed **27.9% of Texas college students** reported smoking in a 30-day period, **compared to 18.9% of adults** from the same geographic area. And, interestingly, there is a huge variance among ethnic groups. Of those college students surveyed, 47% of white students reported smoking, while only 34.5% of Hispanic students and 18.3% of Black students reported smoking.

Passenger traffic at Austin-Bergstrom International Airport in October was up 3.24% from October 2002, but the totals are still down .5% year-to-date, compared to last year.

As a result, this economic barometer appears to be lagging behind many other measures of an up-tick in the economy. The other measure we track regularly at the airport (besides comparing to the previous year) is how business and leisure passenger traffic compares to the years prior to the airline terrorism event of 9/11/01. **And we’re still short of those good years**. The 2003 October total is still below the record boom year of 2000 and even the run-up year of 1999.

Yes, it's a Japanese company. But Toyota, with its newest plant coming out of the ground in nearby San Antonio, may be becoming more American as it relies more on Americans for its unrivaled success.

It's hard to overestimate the long-term impact on our area's economy that Toyota will bring to the table. So it becomes vitally **important to know as much about the automaker as possible**. If you don't think the San Antonio operation is vital to Toyota's future – and that Toyota is becoming more reliant on America — let's start with some basic facts that should widen your eyes a bit.

According to the 12/8/03 edition of *FORTUNE* magazine, Toyota sold more cars and trucks in North America during the past two years than it has in Japan – and the gap is getting wider. Maybe even more importantly, **North America contributes 70% to 80% of Toyota's global profits**. Obviously, Toyota's Texas manufacturing facility will be an integral part of the company's overall strategy.

And Toyota is minting money. For the six months that ended 9/30/03, its *net income* rose 23.2%, to \$4.4 billion on revenues of \$69.7 billion, an all-time Toyota record that confirms its status as the **world's most profitable car company**. Need more? How about this. During that same time frame, Toyota made an operating **profit of about \$2,000 per vehicle while General Motors made only \$18 per vehicle and Ford lost \$197**.

“Toyota's success with US customers begins with the appeal of its cars and trucks, which are prized for their **quality and durability, ease of operation**, and thoughtful features such as **controls that are intuitive to operate**,” notes *FORTUNE*. “Since demand is high and inventories typically low, Toyota, unlike Detroit, sells cars with skimpy marketing incentives, which protects its margins and boosts resale prices.”

“Toyota also finds ways to return value to its customers,” *FORTUNE* continued. “It slashed the engineering development budget for the most recent Camry by 30% to **hold the line on prices**. This year Toyota launched a longer, wider Sienna minivan that has a fold-flat rear seat and priced it **\$1,000 less than its predecessor**.” This helped sales – and profits. One US Toyota dealer calls his franchise a “cash cow.”

How about this quote from **Saul Rubín** of UBS Securities (after surveying US car dealers): “The Toyota brands finished at the top of the pack in almost every measure – desirability, market-share prospects, relationships with manufacturers and customers. Toyota is truly in a class of its own.”

Criticized for conservative design, Toyota is moving to **make its new vehicles “sexier”**. If the design changes work, *FORTUNE* says “better looking cars can only accelerate the company's rise in the US, where Toyota-brand cars began outselling Fords and Chevys this year.”

The fun-loving new airline called “Ted” is being viewed as much more than a lark. There is one chain of thought that it could eclipse its parent, UniTED Airlines.

Since we first told you about the quirky low fare airline 11/28/03, we’ve learned a lot more about United’s bold experiment. Yes, it’s hard to take seriously an airline where agents will answer the phone **“Hello, this is Ted”** and pilots will sign off their in-flight banter with **“Thanks for flying with Ted.”** But the whimsical approach masks a deadly serious effort.

Just consider these facts from Lehman Brothers: 1) domestic market share of **discount airlines has jumped from 9% in 1991 to 28% at the end of 2002**, 2) low fare airlines now impact the pricing in 56% of the markets utilized by the large airlines, and 3) low fare airlines will **add 95 new planes** to their fleet next year while the big carriers will probably **scale down by 63 planes**.

Ted starts flying **19 Airbus A320 jetliners** out of its Denver base in February to nine markets, such as Las Vegas, Phoenix, New Orleans and Tampa (but not Austin, as far as we can tell). The planes will not have 1st Class seating, just 66 seats in front of economy with a **little more leg room** for United’s Mileage Plus members or those who want to pay a slightly higher fare. Ted fliers will sit in assigned seats and be able to accrue and use United Airlines frequent flier miles.

This is a serious effort by a faltering major airline, much like Delta’s low fare model, “Song,” that is already up and running. Both **United and Delta** are having problems (translation: losing boatloads of money) while trying to compete with low fare carriers in a down market where many of their former business travelers are opting to save bucks by giving up first class. **If Ted and Song are successful, it’s not inconceivable the discount product could replace the parent.** Hey, it’s happened in other industries. Remember the retailer Dayton Hudson started a discounter called Target. Now Target is the name of the parent company.

Dr. Louis Overholster, lamenting the life of a parent: “You spend the first two years of their lives teaching them to walk and talk — and the next 16 telling them to sit down and shut up!”

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